

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: NOVEMBER 21, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-24502 - APPLICANT/OWNER: DURANGO AND CENTENNIAL, LLC**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (4-0-1/sd vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-23086).
2. Conformance to the conditions for Site Development Plan Review (SDR-9825), except as amended herein.
3. This approval permits a deviation from LVMC Title 19 parking requirements in connection with the proposed general personal service and massage establishment uses to allow 102 on-site parking spaces where 128 parking spaces would otherwise be required.
4. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This request is for a Variance to allow a deviation from standards for parking in connection with a proposed day spa containing a Massage Establishment use on 1.97 acres at the northwest corner of Centennial Parkway and Durango Drive. Specifically, this application requests a deviation to allow 102 parking spaces where 128 spaces are required for the existing, future, and proposed retail, restaurant, office and general personal service uses.

The proposed day spa, containing a Massage Establishment use, has a higher intensity parking demand than the retail use originally approved for this tenant space as identified on the most recently approved site plan, date stamped 06/09/06. Due to the self-imposed hardship inevitably created by the intensity of the proposed use on the site, denial of this request is recommended.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
12/07/98	The City Council approved a Rezoning (Z-0076-98) to T-C (Town Center) on the subject property as part of a larger request. The Planning Commission and staff recommended approval.
11/01/00	The City Council approved a request for a Site Development Plan Review [Z-0076-98(18)] which allowed a 8,144 square foot commercial development on 2.19 acres at the northwest corner of the intersection of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
11/01/00	The City Council approved a request for a Special Use Permit (U-0116-00) to allow a restaurant with drive-through at the northwest corner of the intersection of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
11/01/00	The City Council approved a request for a Special Use Permit (U-0161-00) to allow restricted gaming in conjunction with a proposed convenience store at the northwest corner of the intersection of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
11/01/00	The City Council approved a request for a Special Use Permit (U-0115-00) to allow the sale of packaged liquor for off-premise consumption in conjunction with a proposed convenience store at the northwest corner of the intersection of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
11/01/00	The City Council approved a request for a Special Use Permit (U-0114-00) to allow for gasoline sales in conjunction with a proposed convenience store at the northwest corner of the intersection of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].

10/04/01	Staff administratively approved a Final Map Technical Review (FM-0051-01) for the El Capitan / Centennial Commercial Subdivision.
12/18/02	The City Council approved a request for an Extension of Time (EOT-1028) of an approved Site Development Plan Review [Z-0076-98(18)] which allowed a 8,144 square foot commercial development on 2.19 acres adjacent to the northwest corner of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
12/18/02	The City Council approved a request for an Extension of Time (EOT-1036) of an approved Special Use Permit (U-0116-00) which allowed a restaurant with drive-through adjacent to the northwest corner of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
12/18/02	The City Council approved a request for an Extension of Time (EOT-1037) of an approved Special Use Permit (U-0161-00) which allowed restricted gaming in conjunction with a convenience store adjacent to the northwest corner of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
12/18/02	The City Council approved a request for an Extension of Time (EOT-1038) of an approved Special Use Permit (U-0115-00) which allowed the sale of packaged liquor for off-premise consumption in conjunction with a convenience store adjacent to the northwest corner of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
12/18/02	The City Council approved a request for an Extension of Time (EOT-1039) of an approved Special Use Permit (U-0114-00) which allowed fuel pumps in conjunction with convenience store adjacent to the northwest corner of Centennial Parkway and El Capitan Way [Proposed: Durango Drive alignment].
11/17/04	The City Council approved a request for an Extension of Time (EOT-5437) of an approved Special Use Permit (U-0116-00) which allowed a restaurant with drive-through on 2.19 acres adjacent to the northwest corner of Centennial Parkway and Durango Drive.
11/17/04	The City Council approved a request for an Extension of Time (EOT-5438) of an approved Special Use Permit (U-0161-00) which allowed restricted gaming in conjunction with a convenience store on 2.19 acres adjacent to the northwest corner of Centennial Parkway and Durango Drive.
11/17/04	The City Council approved a request for an Extension of Time (EOT-5439) of an approved Special Use Permit (U-0115-00) which allowed the sale of packaged liquor for off-premise consumption in conjunction with a convenience store on 2.19 acres adjacent to the northwest corner of Centennial Parkway and Durango Drive.
11/17/04	The City Council approved a request for an Extension of Time (EOT-5440) of an approved Special Use Permit (U-0114-00) which allowed fuel pumps in conjunction with a proposed convenience store on 2.19 acres adjacent to the northwest corner of Centennial Parkway and Durango Drive.

12/01/05	The Planning Commission approved a Site Development Plan Review (SDR-9825) for a proposed 18,000 square foot retail development and waivers of the Town Center Development Standards for building placement and the parking lot and perimeter landscaping requirements. Condition number one required all previously approved Special Use Permits on the subject site to be expunged. Staff recommended approval.
06/07/06	The City Council approved a request to Vacate (VAC-12542) a U.S. Government Patent Easement generally located at the northwest corner of Durango Drive and Centennial Parkway.
07/18/07	The City Council denied an appeal of the Planning Commission denial of a request for a Special Use Permit (SUP-20608) to allow an Auto Title Loan and Financial Institution, Specified use at 6441 North Durango Drive, Suite #120. Staff recommended denial.
10/25/07	<a href="#">The Planning Commission recommended approval of companion item SUP-23086 concurrently with this application.</a>  <a href="#">The Planning Commission voted 4-0-1/sd to recommend APPROVAL (PC Agenda Item #41/rts).</a>
<b><i>Related Building Permits/Business Licenses</i></b>	
02/28/06	A building permit application, plan check C-0212-06, was submitted for the site. This was for a plan check review for Retail Shell Building A at 6441 North Durango Drive. This permit (06007543) was reviewed and approved by the Planning and Development Department on 12/13/06 and issued by the Building and Safety Department 12/29/06. There have been multiple revisions reviewed in connection with this permit, with the latest being issued on 09/12/07.
08/10/06	A building permit application, plan check C-0212-06, was submitted for the site. This was for a plan check review for Retail Shell Building B at 6401 North Durango Drive. This permit (06007539) was issued by the Building and Safety Department 12/29/06. There have been multiple revisions reviewed in connection with this permit, with the latest being issued on 09/12/07.
08/10/06	A building permit application, plan check C-0212-06, was submitted for the site. This was for a plan check review for Retail Shell Building C at 6461 North Durango Drive. This permit (06007542) was issued by the Building and Safety Department 12/29/06. There have been multiple revisions reviewed in connection with this permit, with the latest being issued on 09/12/07.
06/19/07	A business license, B05-93968, for a Cosmetological Establishment category license was processed in by the Department of Finance and Business Services. This license was approved by the Planning and Development Department on 06/26/07, but has not been issued as of 10/04/07.
06/19/07	A business license, M03-93967, for a Massage Establishment category license was processed in by the Department of Finance and Business Services. This license has been denied by the Planning and Development Department pending approval of this application and the companion Special Use Permit (SUP-23086) for the proposed massage establishment use. This license has not been issued as of 10/04/07.

06/19/07	A business license, Q07-93969, for a Medical Firm category license was processed in by the Department of Finance and Business Services. This license was approved by the Planning and Development Department on 06/26/07, but has not been issued as of 10/04/07.
07/03/07	A business license, B08-94310, for a Beauty/Cosmetics Sales category license was processed in by the Department of Finance and Business Services. This license has not been sent to the Planning and Development Department for review nor has this license been issued as of 10/04/07.
07/13/07	A building permit application, plan check TI-93820, was submitted for the site. This was for a plan check review for the tenant improvement to obtain a Certificate of Occupancy for the proposed Day Spa at 6461 North Durango Drive. This permit was reviewed and denied by the Planning and Development Department on 08/21/07 pending approval of this application and the companion Special Use Permit (SUP-23086) for the proposed massage establishment use. This permit has not been issued as of 10/04/07.
<b><i>Pre-Application Meeting</i></b>	
08/29/07	A pre-application meeting was held and elements of this application were discussed. Parking requirements were talked about. Submittal requirements were discussed.
<b><i>Neighborhood Meeting</i></b>	
10/16/07	A neighborhood meeting is scheduled to be held at the Centennial Hills Community Center, 6601 North Buffalo Drive, at 5:30 pm.

<b><i>Field Check</i></b>	
07/16/07	The Department of Planning and Development conducted a site visit that found that this site is near completion of the building construction. There is still work to do in the parking area and tenant improvements to be performed within the shell buildings.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	2.02
Net Acres	1.97

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped (Commercial Center Under Construction)	SC-TC (Service Commercial – Town Center)	T-C (Town Center)

North	ROW (CC 215)	ROW (CC 215)	ROW (CC 215)
South	Undeveloped	Clark County	Clark County
East	Undeveloped	SC-TC (Service Commercial – Town Center)	T-C (Town Center)
West	Undeveloped	SC-TC (Service Commercial – Town Center)	T-C (Town Center)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>			
T-C Town Center District	X		N *
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
T-C (Town Center) District	X		N *
<b>Trails</b>		X	n/a
<b>Rural Preservation Overlay District</b>		X	n/a
<b>Development Impact Notification Assessment</b>		X	n/a
<b>Project of Regional Significance</b>		X	n/a

- \* The proposed Massage Establishment use does not meet the minimum distance separation to a residential parcel. A waiver of the distance separation has been requested as a part of the companion Special Use Permit (SUP-23086) application, which would grant relief from the city standard.

## DEVELOPMENT STANDARDS

*Pursuant to Town Center Development Standards; Title 19.04; and 19.10, the following parking standards apply:*

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
General Retail Store	4,784 SF	1 Space / 175 SF	26 Spaces	2 Spaces	26 Spaces	2 Spaces	Y
Restaurant (without drive-through)	654 SF (Seating) 1,512 SF (Remaining)	1 Space / 50 SF (Seating) + 1 Space / 200 SF (Remaining)	20 Spaces	2 Spaces	20 Spaces	2 Spaces	Y

Office , other than listed	943 SF	1 Space / 300 SF	4 Spaces		4 Spaces		Y
Dry Cleaners	1,600 SF	1 Space / 250 SF	7 Spaces		7 Spaces		Y
General Personal Service	5,181 SF						
-- Tanning Salon	6 Beds	2 Spaces / Tanning Bed	12 Spaces		12 Spaces		Y
-- Beauty Shop	9 Stations	3 Spaces / Station	26 Spaces	1 Space	22 Spaces	1 Space	N *
-- Nail Salon	7 Stations	2 Spaces / Station	14 Spaces		3 Spaces		N *
-- Massage Establishment	7 Rooms	2 Spaces / Massage Room (min. of 6 spaces)	14 Spaces		3 Spaces		N *
<b>Sub-Total</b>			123 Spaces	5 Spaces	97 Spaces	5 Spaces	N *
<b>TOTAL</b> (including handicap)	14,674 SF of Tenant Square Footage		128 Spaces		102 Spaces		N *
Percent Deviation			20.3% Reduction Requested				
Loading Spaces	14,674 SF	2 Spaces @ 10,000 SF to 29,999 SF	2 Spaces		2 Spaces		Y

\* If approved, the companion Variance (VAR-24502) would allow 102 parking spaces where 128 parking spaces are required, thus granting relief from the city standard.

<i>Comparison of the parking status for this site since original approval</i>				
	<i>Original Approved Site Plan (SDR-9825), dated 10/13/05</i>	<i>Revised Approved Site Plan (SDR-9825), dated 06/09/06</i>	<i>Proposed Site Plan (VAR-24502), dated 09/11/07</i>	<i>Net Change from Original or Revised Approval to Proposed</i>
Retail Square-footage	18,000 SF	12,589 SF	4,784 SF	9,616 SF Less 66.7% Reduction
Restaurant Square-footage	0 SF	2,100 SF	2,166 SF	66 SF More 3.1% Increase

Dry Cleaner Square-footage	0 SF	0 SF	943 SF	943 SF Added
Office Square-footage	0 SF	0 SF	1,600 SF	1,600 SF Added
General Personal Services Square-footage	0 SF	0 SF	5,181 SF	5,181 SF Added
<b>Total Square-footage</b>	<b>18,000 SF</b>	<b>14,689 SF</b>	<b>14,674 SF</b>	<b>3,326 SF Less 18.5% Reduction</b>
Parking Required	103 Spaces	102 Spaces	128 Spaces	25 Spaces More 24.2% Increase
Parking Provided	106 Spaces	103 Spaces	102 Spaces	4 Spaces Less 3.7 % Reduction

## ANALYSIS

The subject property has a General Plan designation of TC (Town Center). This is intended to be the principal employment center for the Northwest and is a mixed-use development category. As compatibility allows, a mix of uses can include: mall facilities; high-density residential uses; planned business, office and industrial parks; and recreational uses. The zoning of T-C (Town Center) with a SC-TC (Service Commercial-Town Center) special land use designation complies with this designation. Projects located within the Town Center area are subject to the Town Center Development Standards as well as Title 19.

This variance has been submitted in conjunction with a Special Use Permit (SUP-23086) to allow a Massage Establishment use as a part of a day spa business. In addition to the deviation from parking standards addressed in this variance, there is a wavier request to allow a reduction of the separation distance to a residential parcel that is required for the proposed use.

The proposed day spa with the Massage Establishment use requires 55 parking spaces. The original Site Development Plan Review (SDR-9825) approved this subject site for an 18,000 square-foot retail center with a required 103 spaces (1 space per 175 square feet). Since that approval, a revision has been approved to add a restaurant without drive-through use to the retail component and reduce the floor area of the center to 14,689 square feet (12,589 square feet of retail space and 2,100 square feet of restaurant space). This resulted in a reduction, by one space, of the parking requirement. The latest site plan indicates 102 spaces will be provided, including five handicap spaces (one space depicted as van accessible). This is a request for a reduction in the number of required parking spaces by approximately 20.3 percent. Staff is not in support of this Variance request, as this is a self-imposed hardship and therefore does not meet the criteria for granting a Variance.



## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070(L) states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by attempting to locate the proposed general personal service and massage establishment uses in a retail center that was not designed or intended to provide the required additional number of parking spaces needed for these types of uses. The provision of additional parking spaces or a reduction in the intensity of the project would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 13

**SENATE DISTRICT** 9

**NOTICES MAILED** 123 by City Clerk

**APPROVALS** 0

**PROTESTS** 1